

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: GENERIC PHARMACEUTICALS
PRICING ANTITRUST LITIGATION**

MDL 2724

16-MD-2724

HON. CYNTHIA M. RUFE

THIS DOCUMENT RELATES TO:

ALL ACTIONS

**PRETRIAL ORDER NO. 141
(CONFIDENTIALITY DESIGNATION ORDER AS TO CERTAIN “GROUP 3
DEFENDANTS” PURSUANT TO THE THIRD AMENDED CASE MANAGEMENT
ORDER AND DISCOVERY SCHEDULE (PTO 137))**

AND NOW, this 8th day of October 2020, upon consideration of the attached stipulation of counsel, submitted on behalf of their respective parties in the MDL to Establish Certain Confidentiality Designation Guidelines (“Stipulation”), it is hereby **ORDERED** that the Stipulation is **APPROVED**. Certain deadlines and discovery orders previously provided in Pretrial Order Nos. 105, 110, 123, and 137 are hereby **AMENDED** as set forth by the parties in the Stipulation as to Sun Pharmaceutical Industries, Inc, Mutual Pharmaceutical Company, Inc., and Taro Pharmaceuticals U.S.A., Inc., (collectively, the “SMT Defendants”).

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFE, J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: GENERIC PHARMACEUTICALS
PRICING ANTITRUST LITIGATION

MDL 2724

16-MD-2724

THIS DOCUMENT RELATES TO:

HON. CYNTHIA M. RUFE

ALL ACTIONS

**STIPULATION TO ESTABLISH CERTAIN CONFIDENTIALITY DESIGNATIONS
FOR DOCUMENTS AND DATA PRODUCED ON BEHALF OF SUN
PHARMACEUTICAL INDUSTRIES, INC., TARO PHARMACEUTICALS U.S.A., INC.,
AND MUTUAL PHARMACEUTICAL COMPANY, INC.**

WHEREAS the Court entered a Case Management Order and Discovery Schedule on October 24, 2019 (Pretrial Order No. 105, ECF 1135) setting forth certain deadlines for the management of and discovery schedule for cases pending in the MDL as of September 1, 2019 (and, for the avoidance of doubt, the deadlines set forth in PTO 105 did not and do not apply to discovery relating to cases that were not pending as of September 1, 2019, nor does this stipulation apply to Defendants named in this MDL for the first time in cases filed after September 1, 2019);

WHEREAS the Court extended certain of the deadlines in PTO 105 when it entered Pretrial Order No. 110, ECF 1179;

WHEREAS the Court extended certain of the PTO 105 deadlines relating to production of custodial documents and vacated certain other of the PTO 105 deadlines relating to confidentiality designations and clawbacks when it entered Pretrial Order No. 123, ECF 1363;

WHEREAS the Court amended certain deadlines relating to confidentiality designations and clawbacks previously provided in Pretrial Order Nos. 105, 110, and 123 when it entered Pretrial Order No. 137, ECF 1512;

WHEREAS the Court amended the procedures and deadlines relating to the confidentiality designations of “Group 3 Defendants” as provided in Section 3(e)(ii) Pretrial Order No. 137 when it entered Pretrial Order No. 138, ECF 1513;

WHEREAS MDL Plaintiffs and Group 3 Defendants Sun Pharmaceutical Industries, Inc. (“Sun”), Taro Pharmaceuticals U.S.A., Inc. (“Taro”), and Mutual Pharmaceutical Company, Inc. (“Mutual”), (together the “SMT Defendants”) have engaged in good faith negotiations to identify and agree upon appropriate revised processes and deadlines relating to confidentiality designations applicable to discovery falling within the scope of PTO 105;

WHEREAS pursuant to the aforementioned good faith negotiations, the SMT Defendants negotiated separately from the other corporate defendants in the MDL with respect to the manner in which they may apply confidentiality designations to the documents and data they produce;

NOW, THEREFORE, it is jointly stipulated and agreed by and among the parties, through their undersigned counsel:

A. Plaintiffs and the SMT Defendants have agreed to revised procedures and deadlines relating to the confidentiality designations of documents and data produced by the SMT Defendants pursuant to Paragraph 4(a) of PTO 105, as stated below.

B. All other provisions of PTOs 105, 110, 123, 137, and 138 remain in effect.

4. DISCOVERY OF DEFENDANTS’ TARGETED DOCUMENTS

Section 4(e)(i)-(iv): The following provisions shall supersede and replace paragraphs 4.e.i through 4.e.iii of PTO 105 as to the SMT Defendants only:

e. Confidentiality:

- i. “Blanket” Designations per PTO 53. Documents and data produced and designated/stamped at the confidentiality level “Outside Counsel Eyes Only” by the SMT Defendants shall remain so designated/stamped in the MDL, subject to modifications under PTO 53 (or any amended version thereof), other Court Order, or other applicable law. For those documents and data that were produced by the SMT Defendants with a confidentiality designation/stamp lesser than “Outside Counsel Eyes Only”, SMT Defendants are permitted – but not required – to produce to all MDL parties an overlay for those productions to re-designate the documents therein as “Outside Counsel Eyes Only,” and if such documents are not re-designated, the confidentiality designation lesser than “Outside Counsel Eyes Only” shall remain intact.
- ii. The terms of PTO 53, or any amendment or subsequent Protective Order, shall continue to apply to the SMT Defendants’ produced documents and data, including but not limited to the right of any party to seek a de-designation or re-designation of any documents.
- iii. SMT Defendants consent, under ¶ 5.3(k) of PTO 53 (any amended version thereof), to the disclosure of any documents or data produced by them to any deponent in the MDL, provided that the deposing party has a good-faith basis to believe that the matters memorialized in the document are relevant to events, transactions, discussions, communications, or data about which the witness is expected to testify or about which the witness may have knowledge. SMT Defendants retain the right to object to and challenge the disclosure of any documents or data to any deponent

in the MDL where the SMT Defendants do not believe Plaintiffs have a good-faith basis, as set forth above, for such disclosure.

- iv. Notwithstanding the agreed-upon or Court-ordered disclosure to a deponent of any documents or data produced by SMT Defendants, said document shall remain designated as “Outside Counsel Eyes Only” for all other purposes in the MDL, subject to appropriate modification under PTO 53 (or any amended version thereof).
- v. The foregoing procedures regarding confidentiality designations may be amended by agreement or stipulation of the parties, subject to Court approval.

It is so **STIPULATED**.

Dated: October 8, 2020

/s/ Roberta D. Liebenberg
Roberta D. Liebenberg
FINE, KAPLAN AND BLACK, R.P.C.
One South Broad Street, 23rd Floor
Philadelphia, PA 19107
215-567-6565
rliebenberg@finekaplan.com

Liaison and Lead Counsel for the End-Payer Plaintiffs

/s/ W. Joseph Nielsen
W. Joseph Nielsen
Assistant Attorney General
55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120
Tel: (860)808-5040
Fax: (860)808-5033
Joseph.Nielsen@ct.gov

Liaison Counsel for the States

/s/ Dianne M. Nast
Dianne M. Nast
NASTLAW LLC
1101 Market Street, Suite 2801
Philadelphia, PA 19107
215-923-9300
dnast@nastlaw.com

Liaison and Lead Counsel for the Direct Purchaser Plaintiffs

/s/ William J. Blechman
William J. Blechman
KENNY NACHWALTER, P.A.
1441 Brickell Avenue
Suite 1100
Miami, Florida 33131
Tel: (305) 373-1000
Fax: (305) 372-1861
E-mail: wblechman@knpa.com

Liaison Counsel for Direct Action Plaintiffs and Counsel for the Kroger Direct Action Plaintiffs

/s/ Erik T. Koons

John M. Taladay

Erik T. Koons

Stacy L. Turner

Christopher P. Wilson

BAKER BOTTS LLP

700 K Street NW

Washington, DC 20001

Telephone: (202) 639-7700

Facsimile: (202) 639-7890

john.taladay@bakerbotts.com

erik.koons@bakerbotts.com

stacy.turner@bakerbotts.com

christopher.wilson@bakerbotts.com

Lauri A. Kavulich

Ann E. Lemmo

CLARK HILL PLC

2001 Market St, Suite 2620

Philadelphia, PA 19103

Telephone: (215) 640-8500

Facsimile: (215) 640-8501

lkavulich@clarkhill.com

alemmono@clarkhill.com

Lindsay S. Fouse

CLARK HILL PLC

301 Grant St, 14th Floor

Pittsburgh, PA 15219

Telephone: (412) 394-7711

Facsimile: (412) 394-2555

lfouse@clarkhill.com

*Counsel for Defendants Sun Pharmaceutical
Industries, Inc., Taro Pharmaceuticals U.S.A., Inc.,
and Mutual Pharmaceutical Company, Inc.*